

REMARKS

Claims 4 and 9-17 are pending. Claims 14 and 15 are withdrawn. By this response, claims 4 and 16 are amended and claim 17 added. Reconsideration and allowance based on the above amendments and following remarks are respectfully requested.

Applicant appreciates the indication of claim 16 as containing allowable subject matter. Claim 16 has been amended into independent format by including the features of independent claim 4. Accordingly, claim 16 is now in condition for allowance.

Prior Art Rejections

The Office Action rejects claims 4, 9, 10 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Ejima et al. (U.S. 2002/0027602) in view of Habuto et al. (U.S. 6,810,441) and claims 11 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Ejima, Habuto and Yamaoka (U.S. 5,130,812). These rejections are respectfully traversed.

Claim 4 recites, *inter alia*, a control device which controls selective deleting of an audio file from a recording medium, wherein when the empty capacity of the recording medium is less than the estimated recording amount, the control device controls selective deleting by controlling the reproduction processing device to reproduce a portion of an audio file that is a candidate deletion object for output by the audio output device and deletes the candidate deletion object upon determining that an operator is proceeding with a previously-initiated picture-taking operation, wherein deletion of the candidate deletion object is performed in an image capturing sequence upon executing image capturing instructions during the picture-taking operation.

The Office Action alleges that Ejima teaches all the features of independent claim 4 except for the above-noted feature. The Office Action alleges that Habuto teaches this feature absent in Ejima and that the combination of Ejima and Habuto's teachings provide Applicant's claimed invention as recited in independent claim 4. Applicants respectfully disagree.

In the embodiments of the present invention defined by claim 4, the camera is configured upon initiating a picture-taking operation to determine whether enough memory is available to store a captured image. If enough memory is not available, a selection process is performed whether to erase audio data during the image capture sequence. If an operator of the camera continues with the image capturing sequence, for example, by pressing a shutter button part way or fully, then the camera determines that the operator desires to erase the audio data selected to be erased and capture an image. The erasing of the audio data is performed upon instructions received by the camera to execute image capturing. Thus, the deletion is performed upon the initiation of the capturing of the image (during the image capturing sequence). See page 15 through page 17, line 4 of the specification.

In contrast, Habuto teaches a digital camera that displays a message to a user that memory is full when attempting to capture a picture when the camera has insufficient memory. Upon receiving this message the user must initiate an erasing procedure to remove data from the memory. The user enters the menu screen to either erase the selected images or data of another category. The other category may include audio data. Upon selection of the contents of an audio file, for example, the camera displays how many pictures can now be captured. The user can then commence an image capturing operation. See column 12, line 9 through column 13, line 20.

The user of Habuto operates the menu screen of the operation unit to delete spontaneously the image or audio file when the message on the display says that the memory is full. Habuto makes it possible for a user to record the new image only by the deletion of an image or audio file prior to recording image data. This deletion provides the necessary recording for the new image data. It is only after this deletion is accomplished that the image capturing operation can be performed. Thus, in Habuto, a user must manually erase images or other data, such as audio data, when the memory is full. This is not done during an image capturing sequence upon executing image capturing instructions during a picture-taking operation. In Habuto, the erasing of the image is accomplished prior to executing instructions for capturing an image.

As stated above, in applicant's embodiments the deletion operation can be accomplished during the image capturing operation without switching to the menu display screen to manage the deletion process and then switching back to the image capturing operation. Thus, applicant's embodiments provide novel features, devices and methods for accomplishing image capturing in view of storage capacity.

Therefore, in view of the above, Applicant respectfully submits that the combination of Ejima and Habuto fail to teach each and every feature of independent claim 4 as required. Further, Yamaoka fails to remedy the deficiencies of Ejima and Habuto. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

Regarding added independent claim 17, support for this claim can be found at least on page 15, lines 25-31 of the specification. In Habuto, when a user tried to capture an image in the display screen D2 (when a user tries to capture another image of the subject) as illustrated in Fig. 8, the display D3 is shown on the screen, see column 12, line 25. Thus, the image capturing (recording of the image) is not performed when the display screen is changed from D2 to D3.

Further, even if the image capturing (recording of the image) is performed, Habuto does not disclose saving the captured image data in the RAM in the camera temporarily and then recording the captured image data to the memory card from the RAM after the available recording capacity of the memory card is secured. Thus, Habuto does not teach the features of claim 17.

CONCLUSION

For at least these reasons, it is respectfully submitted that Claims 4 and 9-17 are distinguishable over the cited art. Favorable consideration and prompt allowance are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad J. Billings (Reg. No. 48,917)

Application No. 09/994,747
Amendment dated June 5, 2006
Reply to Office Action of March 3, 2006

Docket No.: 0879-0364P

at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: June 5, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Anderson', written over a horizontal line.

By
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